

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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DONALD MONTGOMERY,
ANDREW CARTER, LOIS REID,
KARL BECHLER, and "M.M.,"
as individuals, and on
behalf of all other persons
similarly situated,

Plaintiffs,

vs.

ANDREW M. CUOMO, Governor of the State
of New York; ANN MARIE T. SULLIVAN,
Commissioner of the New York State Office
of Mental Health; MICHAEL C. GREEN,
Executive Deputy Commissioner of the
New York State Division of Criminal Justice Services;
JOSEPH A. D'AMICO, Superintendent of the
New York State Police; VINCENT F. DEMARCO,
Suffolk County Sheriff's Department; and
EASTERN LONG ISLAND HOSPITAL,

Defendants.
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NOTICE OF MOTION

Civil No.:
14-cv-06709-CJS

Hon. Charles J. Siragusa

PLEASE TAKE NOTICE that, upon the annexed Declaration of Helene de Reeder, RN, MSN (with exhibit) and the accompanying Memorandum of Law, along with all prior pleadings and proceedings in this case, the defendant EASTERN LONG ISLAND HOSPITAL will move this Court at the United States District Courthouse for the Western District of New York, Rochester Division, located at 100 State Street, Rochester, New York 14614, to grant an Order:

1. Pursuant to Rule 12(b)(3) of the Federal Rules of Civil Procedure dismissing, with prejudice and without leave to replead, plaintiff's Amended Complaint for improper venue; and
2. Pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure dismissing, with

prejudice and without leave to replead, plaintiff's Amended Complaint for Plaintiffs' lack of standing; and

3. Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure dismissing, with prejudice and without leave to replead, plaintiff's Amended Complaint for the failure to state a claim upon which relief can be granted on the claims of:
 - a) violation of the right to privacy (First Cause of Action);
 - b) violation of the equal protection clause (Second Cause of Action);
 - c) violation of the due process clause (Third Cause of Action);
 - d) violation of the right to keep and bear arms (Fourth Cause of Action); and
4. Granting such other and further relief as the Court deems just and proper.

In support of its motion, defendant EASTERN LONG ISLAND HOSPITAL relies on: the accompanying Memorandum of Law; and any argument that may be heard on the motion; and intends to file and serve reply papers in further support of the motion.

PLEASE TAKE FURTHER NOTICE, that plaintiff's opposition, if any, is to be served within fourteen days after service of the moving papers.

Dated: Hauppauge, New York
February 27, 2015

Yours, etc.
FUMUSO, KELLY, DeVERNA, SNYDER,
SWART & FARRELL, LLP

By: /s/ Catherine Ann Brennan
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